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Agriculture Committee
August 30, 2007

[LR93]

The Committee on Agriculture met at 6:30 p.m. on Thursday, August 30, 2007, in the Red Rock Room at Hampton Inn and Suites, Scottsbluff, Nebraska, for the purpose of conducting a public hearing on LR93. Senators present: Philip Erdman, Chairperson; Annette Dubas, Vice Chairperson; and Russ Karpisek. Senators absent: Ernie Chambers, Merton "Cap" Dierks, Vickie McDonald, Don Preister, and Norman Wallman. Senators also present: Tom Hansen, and LeRoy Louden. []

SENATOR ERDMAN: Good evening. That works. Well, I want to welcome you to the Ag Committee's hearing on LR93, and before we get to that I'll introduce myself, the committee members who are here. We also have some senators who are not members of the Agriculture Committee who are joining us and, as tradition of the Nebraska Legislature when we have interim hearings, we invite the senators from those areas to be a part of those deliberations as well. And so we will introduce them as well. My name is Phil Erdman. I'm from Bayard. I have been elected Chair of the Agriculture Committee for these two years, and we have, as a committee, been traveling the state for the last three or four days, and look forward to hearing what you have to say. I'll introduce the committee. First, to my far left, Senator Russ Karpisek. Russ is from Wilber, Nebraska. Next to him is Annette Dubas. Annette is a senator from Fullerton, Nebraska. To my left is Linda Dicken. Linda is the committee clerk. She is the one responsible for making sure that the transcribing happens; that if you have testimony or information you'd like to distribute to the committee, present that to her and we'll make sure that a copy gets distributed to everyone, even those who aren't here. To my right is Rick Leonard. Rick is the research analyst to the Ag Committee. Next to Rick is Tom Hansen. Tom is from North Platte. He is a member of the Health Committee as well as the Banking Committee, but he's also a rancher and has recently been elected to the Legislature to represent Lincoln County, and so we're glad that he has made the trip. Next to Senator Hansen is Senator LeRoy Louden. Senator Louden is from Ellsworth. He is the Chairman of the Natural Resources Committee and does a great job there for us, and is

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also a rancher and so we're grateful for him being here and being a part of this discussion as well. One of the things that I would ask, as we have our conversation this evening, that if you have a cell phone, that you would at least turn that to a silent ring or vibrate. One of the things that the transcribers don't appreciate is having a lot of bells going off in their ears when they're trying to make sense out of what we're saying here. So that helps as well. Senator Karpisek reminded me he's wearing a Husker tie because that's been the joke I've used the last two hearings, and since I'm a creature of habit, I'll use it again. One of the things that we don't want to have happen here is that if somebody makes a great speech, like the Huskers scoring a touchdown, you know, you don't cheer and scream and go crazy. And if, you know, somebody sacks Sam Keller on Saturday afternoon we'll probably boo then, but we don't want you to boo tonight if you hear something that you may not agree with. Because we are trying to make sense out of this whole process, we want to make sure that everybody feels welcomed when they come forward and testifies before the committee. When you came in the door, there were sign-in sheets out in the hall there. If you plan to testify, we'd appreciate it if you would fill one of those out before you come forward. That way we have a record of who was here this evening. Also out there I've just...we actually have extra copies here. Also, I've placed a copy of the actual language of the legislative resolution if you want to see that. I'll explain to you what exactly that is. So you may want a copy of that; you may not. But as you begin your testimony, please state your name and spell it. That will help us make sure that we have your name spelled correctly when you go down in history as a part of this process. That also assists us in making sure that the transcribers have a record of your testimony as well. Relax, don't be nervous. Most of us a few short years ago or even a few months ago were on your side of the table trying to figure out what the Legislature was doing, and so come forward, share your thoughts. The interim study process is unique. We don't make great presentations to you so that you can go home and think about them. We try to engage you in the discussion and make sure that you're a part of this process and share your thoughts with us because we're trying to gather the information to help us deal with the issues before the committee. Specifically, LR93 was designed or at least introduced to give the committee the opportunity to do an

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in-depth study to have some discussion statewide and hopefully to engage Nebraskans again as we did 25 years ago--and Senator Dubas was a part of this process even before that in the crafting of Initiative 300 in some of the organizations that she was a part of--to begin to engage the public, and specifically those in agriculture, to try to determine what should the public policy be in the state of Nebraska regarding agriculture. Obviously, Initiative 300 addressed a number of issues, specifically, corporate ownership of farmland, but one of the things that I want to make sure is clear to you tonight, that this study is not simply about how do we restore Initiative 300 or what forms of Initiative 300 do we put back in place. This is a broad-based discussion. If you have ideas that extend beyond Initiative 300 that should be good policy for agricultural production and ag in general, we want to hear those things. We've been in Norfolk on Monday. We were in Lincoln on Tuesday. We had a great deal of testimony, a great deal of interest. One of the things that's interesting about our state is that there's a lot of diversity of opinion, but one of the things that's the same is that we all have one. And so I know that being here in western Nebraska that we've thought, we've even argued, and hopefully tonight we can deliberate and discuss what you think about some of the policy issues before the Legislature. We as a committee have also undertaken an effort to do research. We are compiling studies. We're going to be commissioning some assistance to help us to make sure that we have the best information available to us as we make some of these decisions. Your input will help us in that. If you have ideas of things that you would like to see us discuss or consider or research, we'd definitely like to hear that from you, and in making sure that we add that to our list and recognizing that there are a diversity of opinions throughout this state. We have...again, the information is out there as far as what the language says, but I'll just simply say that it lets the Ag Committee study ag issues and we're hoping that you'll help us narrow down and focus on what those topics are here tonight. I know quite a few of you in the room. The way that we have practiced this is that we generally let people come forward, but in the event that it's like church or some other event where nobody wants to say anything, you may be invited to come forward and share some things, and I'll again reiterate you don't have to have the answer. And, in fact, the committee and those senators who are

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here, we don't necessarily have the answer at this point either. But just as this process began almost 35 years ago to try to figure out some of these issues that we're discussing tonight, you need to be involved in this discussion again, and this discussion needs to continue beyond tonight and needs to go back to the folks that you see on a daily basis across the fence line or at the coffee shop in making sure that whatever ideas that you may hear there you share with us as well, and it helps us to better understand what the people in Nebraska expect out of our state's number one industry, in agriculture. So with that, that wonderful, lengthy opening, I know some of you have come with prepared testimony. Feel free to read that into the record. We do have a microphone at the witness stand to make sure that the others in the room can hear you. Because you're close enough that we can almost reach out and shake your hand, we'll probably be able to hear you, but we also want to make sure that the others in the room can hear. So you can feel free to adjust that to meet your needs and share your thoughts with us. Pretty informal: There's no agenda other than yours, so come forward and tell us what it is. []

JEFF METZ: Do you need me to spell my name? []

SENATOR ERDMAN: Yeah. And you can also put the testifier's sheet in the box, but when you have testimony to hand out, you can just give it to Linda as well. []

JEFF METZ: (Exhibit 1) My name is Jeff Metz, J-e-f M-e-t-z. I am a crop and livestock producer from Angora in Morrill County. I'm a member of the Nebraska Farm Bureau Federation. I serve on its board of directors, representing District 8, which takes in all the Panhandle area. I'm here on behalf of Nebraska Farm Bureau Federation to offer testimony on LR93. I want to applaud the members of the Ag Committee for undertaking this study. The legal demise of Initiative 300 offers us the opportunity to examine agriculture in Nebraska, envision our future, and study policies that can assist producers in achieving prosperity. We encourage the committee to think broadly, and not focus so much on restricting activities or entities, but to focus instead on policies that can

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encourage and help those of us in production agriculture succeed. Last December at our annual meeting our members discussed Initiative 300, the likelihood of its legal demise, and adopted policy that supports research of corporate farming laws in neighboring states as possible alternatives for Nebraska. The policy also states that any corporate farming policy adopted should be contained in statute rather than the constitution, and allow for certain business arrangements among unrelated producers. Agriculture and rural Nebraska are changing. To adapt to these changes producers need to join together, cooperate, think regionally, and tap niche markets. To start from scratch in agriculture today and succeed is virtually impossible. The ability to form an LLC, joint venture, or similar structure with neighbors and nonimmediate family would improve producers' chance for success. Farmers and ranchers must be able to work with neighbors to develop innovative new products, capture niche markets, and add value to their commodities and not have to overcome significant costs and hurdles to limit the exposure of their operations or farm assets. Nebraska Farm Bureau has developed several criteria based on our policy we will use in examining corporate farming alternatives. The criteria are listed below and we encourage the Ag Committee to consider these criteria as well. I won't go through all of them, but I will highlight a few of them. Number one, will it assist young farmers and ranchers entering agriculture? Number two, will it help today's agriculture grow and prosper? Third, will it allow unrelated producers to form business arrangements to limit liability and pool capital? Fourth, will it enhance value-added agriculture? Fifth, will it allow producers to attract capital to agriculture ventures? We are in the midst of our policy development process this year, with our county annual meetings just beginning. One of the issues I'm sure our members will discuss will be corporate farming policy in the state. As the discussion progresses, we will gladly keep you updated. I also want to touch on a bit of a few other issues Farm Bureau encourages the committee to consider as part of its study. First, as you know, livestock production is crucial to the state's economy. With the explosion in the ethanol industry, livestock is even more critical. It is vitally important that we continue to grow the market for ethanol coproducts through livestock. Nebraska has distinct competitive advantages, and we must assure that we capitalize on them.

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Nebraska typically is described as having stringent regulations administered through DEQ governing livestock waste. Nebraska producers have demonstrated the willingness to invest the resources necessary to meet the regulations and produce livestock responsibly. However, there seems to be a growing trend, whether intended or unintended, of local zoning regulations thwarting livestock opportunities. We know of instances where producers have been denied county conditional use permits, even though they have met both the local zoning regs and the DEQ requirements. Word of these denials has spread and resulted in some producers forgoing opportunities in livestock production. With the myriad of local county, city, and township zoning rules, we fear Nebraska could potentially lose any competitive advantages it might have. We certainly encourage the committee to study this issue and examine possible means to provide assurances to producers that if they meet the environmental and zoning standards they would be permitted. Second, outside the Department of Agriculture's dairy recruitment effort, and the work by several parties in recruiting ethanol plants, we are not aware of any coordinated effort at the state level to strategically look at attracting investment in value-added agriculture like livestock or agriculture processing and agritourism, nor are we aware of any coordinated effort between the state and local economic development entities in this area. We would suggest the committee examine means to build upon existing programs and efforts, like the Department of Ag's dairy recruitment, the livestock-friendly county program, NPPD's work in both ethanol and livestock, and others, to develop a coordinated approach between state and local entities in attracting investment to production and value-added agriculture. Third, the Legislature took an important step in recent years by including production agriculture in the state's tax incentive programs. Agriculture producers can now receive incentives for investing in new enterprises through the Nebraska Advantage Microenterprise Act. Livestock producers can also receive incentives through the Nebraska Advantage Rural Development Act for incentives (sic) in new or expanding livestock operations. We encourage the committee to look at other possibilities to provide incentives to encourage producers to explore new business opportunities. We think it would be particularly fruitful to continue to explore incentives to encourage young and beginning

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producers to enter the industry. In closing, thank you for the opportunity to provide comments. Be happy to answer any questions. [LR93]

SENATOR ERDMAN: Thank you, Jeff. Any questions for Mr. Metz? I'll ask you some. [LR93]

JEFF METZ: Okay. [LR93]

SENATOR ERDMAN: I appreciate the issues that you've listed out. I think that's...I think that's helpful for the committee. One of the things that I'll also point out--this might not be much of a question--but it looks like the issue of ag development is something in your second issue that you brought up. One of the other interim studies that we have in the committee deals specifically with how do we use ag development as a component of economic development. We had a hearing on Monday including wind energy development, as well, that might be a component of rural economic development. So I'm glad that you put that in there. I guess the question that I have is that you appear, and I know you a little bit, but you appear to be younger than probably the average age of a farmer in Nebraska. [LR93]

JEFF METZ: Thank you. (Laughter) [LR93]

SENATOR ERDMAN: And I appear to be younger than the average age of Nebraskans, so we're...we have something in common. Your perspective, maybe not speaking on behalf of an organization, but your perspective, do you see the issue of Initiative 300 contributing to or undermining the efforts of young farmers being involved in agriculture, and what are some of the components that you would like to see be encouraged, whether it's similar protections or policies that would encourage young people to get involved in agriculture? [LR93]

JEFF METZ: This would be my own opinion. I wouldn't be talking for Nebraska Farm

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Bureau. Anything that would promote the family farm and enable young farmers and ranchers to enter the business or continue in the business with a limited partner I think is vital for Nebraska ag to have these young folks stay on the farm or come back to the farm, any incentives, whether it's property tax-wise or just what it is, anything to help the young guys stick around. [LR93]

SENATOR ERDMAN: Okay. Senator Dubas. [LR93]

SENATOR DUBAS: Thank you, Senator Erdman. Thank you, Jeff, for being here this evening. In your opinion, would you see more challenges on the production end of agriculture or on the marketing end of agriculture for young farmers or just farmers in general? [LR93]

JEFF METZ: Production, because of the cost of the upstart business is great. It's virtually impossible to actually go buy a farm or a ranch from scratch and get started. If your family is not in it, it's very hard to buy into it. [LR93]

SENATOR DUBAS: Thank you. [LR93]

SENATOR ERDMAN: Thank you, Senator Dubas. Senator Karpisek. [LR93]

SENATOR KARPISEK: Thank you, Senator Erdman. Jeff, what would you say was the biggest advantage for the incorporating versus a partnership? You say you can't just start into it, obviously, but why can't you just be a partnership? Is it the liability? Is it the... [LR93]

JEFF METZ: Yes, in my opinion, I think it would be the liability. If three or four neighbors wanted to market their cattle, their calves on a yearly basis, it would be much more beneficial for them to limit their liability to just that instead of the whole operation. [LR93]

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SENATOR KARPISEK: Okay. Thank you. Thank you, Senator Erdman. [LR93]

SENATOR ERDMAN: Thank you, Senator Karpisek. Senator Louden. [LR93]

SENATOR LOUDEN: Yeah. Well, thanks, Jeff, for being here tonight. It's a pleasure to visit with you again. As you...your organization has always promoted, you know, family farms and value-added agriculture, and as a member of the Transportation Committee, what I see come acrossed is we're out here trying to knock ourselves out, you might say, trying to find ways to have rural economic development. I mean, we're all talking about it, trying to do it. Initiative 300 was part of the reason for that, was to save the family farms. But yet, on the other hand, our Department of Roads on our transportation will spend maybe, in 2008, they'll spend \$18 million for maintenance work out in western Nebraska, or new repair work, and then we're talking about a \$90 million belt line around Lincoln. So right there we're short a few bucks. The next thing is we have a Legislature that, in their infinite wisdom, did away with your Class I schools and your small schools. Now we have people that are driving 15 miles to meet a school bus, and when you try to get young people to come out there with children that have school age and you tell them, well...they say, where's school, and you say, well, it's 45 miles away but you only have to drive 15 miles, you know, to meet the bus at 6:30 in the morning, and these people are gone. So has your organization, or you or anyone addressed that problem? We have a complete...a complete set of problems there that I think we need to start clear at the bottom and do something about before we can even worry about saving the family farm. Because I'm scared to death it's already gone if we don't do something about our infrastructure out here. What would your answer be to that? [LR93]

JEFF METZ: I agree. (Laughter) [LR93]

SENATOR LOUDEN: You're a great friend. Thanks. [LR93]

JEFF METZ: (Laugh) Yeah. Well, as you know, LeRoy, my wife taught in a Class I

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school, even at Lakeside, when she was up there. You're absolutely right about the Class I problem and it just seems that distance then distances rural Nebraska even further. You know, we're used to traveling here, you have to, and it just makes it that much more of a road trip, I guess, when you have to take your kids 40 miles in to school or to meet a bus. We sure...we sure would appreciate more resources for our roads and infrastructure here because it seems like we're always on the back burner or nobody remembers that there's an end of the state west of Kearney. [LR93]

SENATOR LOUDEN: Thank you. [LR93]

SENATOR ERDMAN: Thank you, Senator Louden. If we could all agree that easily, we'd get things done in no time, right? (Laughter) Twenty-five votes would be easy to do. Any other questions for Jeff? Senator Hansen. [LR93]

SENATOR HANSEN: A short one. Thank you, Senator Erdman. Jeff, thanks for coming tonight. Appreciated your comments about value-added agriculture. We just heard a presentation from the university, the extension center out here, and they were talking about the brown mustard and the new crops that they're trying to come up with to increase the soy diesel production out here, or at least the oil production. We've gone into a...we've gone from a agriculture-based economy to almost an agriculture with a fuel industry now. How do you see that growing in this part of the state, and especially the Panhandle? [LR93]

JEFF METZ: Well, we have been trying for a ethanol plant for awhile, and appears that there's a few announced. Biodiesel is, in my opinion, it's the next big boom. I would say that any place that there was a biodiesel plant, especially in the Panhandle, would be hugely...would be a great benefit for us here, not only in end product but in jobs and everything else. From all that I understand, you know, we...I don't think we can...we can't readily get biofuel right now. [LR93]

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SENATOR HANSEN: As a producer, how are you going to take advantage of the university's research in this oil part of it? [LR93]

JEFF METZ: There's a...you know, I really don't know if we...if there's been a whole lot in my area done on the brown mustard, other than...I don't know of anybody that's actually raised it other than the university plots, and I would be all for raising some if it was a reliable cash crop. [LR93]

SENATOR HANSEN: Thank you. [LR93]

SENATOR ERDMAN: Thank you, Senator Hansen. Jeff, appreciate your testimony. And for the rest of you here, you recognize that very quickly the issue extends beyond some basic topics, and I think it's key to point out that all these things are interrelated to agriculture and our rural communities. And so those of you that may be sitting here, trying to wonder whether or not you had something to say tonight, it's pretty easy to give some thoughts to us as a committee and we'll try to sort out where they fit into this process. But, Jeff, we appreciate you coming. [LR93]

JEFF METZ: Thank you. [LR93]

SENATOR ERDMAN: Thank you. Next testifier, please. I have warned a few folks that I will call them forward if they don't volunteer. Could everyone hear the testifiers all right in here? I know that the acoustics are pretty good and I'm not sure if the microphone is picking everybody up. I know the next testifier here probably won't need the microphone. But if you can't hear or would like people to speak up, just let us know. We want to make sure that you hear what's going on as well. And we'll have you sign that when you get done. [LR93]

DAVE PETERSEN: Okay. Soft-spoken guy like me, and you'd say that. I'm Dave Petersen from Morrill County. [LR93]

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SENATOR ERDMAN: Spell your last name, Dave. [LR93]

DAVE PETERSEN: P-e-t-e-r-s-e-n. [LR93]

SENATOR ERDMAN: Okay. [LR93]

DAVE PETERSEN: My comments are brief. The only thing that I wanted to say was that I personally feel like the Legislature legislates best that legislates least, and my desire would be to see you not do a whole lot in what you're proposing here. Senator Erdman, your father has a saying that he says quite often. He says, when the only tool you have is a hammer, it's amazing how everything looks like a nail. And it's true. And I think when people get into the Legislature they think we can fix everything through the legislative process. The problems that I see here...and I am a member of Farm Bureau. I'm on the state legislative policy committee, and I'm not speaking for them. I am...this is my own personal feelings. The problem when you get into this, just like Initiative 300 created the problem of discrimination, when you help one person, when the Legislature, whether it's federal or state, helps one person, it almost inherently harms someone else. If you grease the skids for one person, you have to pour some sand on the track for the other person, because if you make it easy for a young farmer to purchase land, you're making it more difficult for an older person to purchase farmland. I'm not saying that the Legislature shouldn't do all they could to encourage young people in agriculture, but I'm not in favor of discrimination at the same time. So your task is arduous when you try to do these things, when you try to help groups, but I want you to keep in mind that when you help one group then you're probably hurting somebody else. That's all I had to say. [LR93]

SENATOR ERDMAN: Okay. Thank you, Dave. Any questions for Mr. Petersen?
Senator Loudon. [LR93]

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SENATOR LOUDEN: Yes, Dave, thanks for your testimony. Well, I agree that Initiative 300 probably wasn't the answer. At the time, it looked like a good idea because that's when we had some large insurance corporations coming out and buying up a lot of land in eastern Nebraska and whatever. Do you think that that Initiative 300 made it easier or harder for young people to purchase land, or did it have any effect at all on the purchase of land? [LR93]

DAVE PETERSEN: Probably initially, but I think as time went by and people found out how to get around it and how to make some straw purchases, I think it probably didn't do a lot of good. But again, and I say the word "good," it may have helped those people trying to buy farmland, but it hurt the people who were selling the farmland. So, you know, if you have land that...well, we've had some land that sold in the last year, in the last six months in the valley here that is...has just blown everybody away with the price that it brought. It's never brought that before. And I think those things happen. Well, it's bad for people that are trying to buy the land. But, on the other side of that, if you do something to hold the land prices down, now you're hurting the landowner. So that...guess to go back to my original point, if you help one person, you hurt somebody else. [LR93]

SENATOR LOUDEN: Do you think...my follow-up question would be then, do you think that that 1031 deferred sales taxes did more harm to purchasing land than any...anyway...that Initiative 300 would have done for...to improve it or anything like that? [LR93]

DAVE PETERSEN: I think the 1031 exchange has had an incredible impact. I guess I'm not prepared to say whether that's a good or a bad thing. In some ways, I think it's necessary. I mean if...you'd never get land to change hands if they didn't do something, I suppose. [LR93]

SENATOR LOUDEN: This high-priced land you spoke of, was it a 1031? [LR93]

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DAVE PETERSEN: I'm not sure...yeah, it was. Yeah, it was a 1031, out-of-state buyer. Yeah, and they had... [LR93]

SENATOR LOUDEN: That...that... [LR93]

DAVE PETERSEN: ...they sold 20 acres for a lot of dollars and they came out and they bought a lot of acres for...trying to get rid of that money. So, yeah, that plays into it. And I think the 1031...I guess where that would...could be better maybe is the time factor on, you know, doesn't...wouldn't put people in a crunch to go out and buy it, buy so quickly. [LR93]

SENATOR LOUDEN: Okay. One last question then: Do you think then that 1031 deferred sales should be used for comparable sales analysis when you're valuing for tax purposes? [LR93]

DAVE PETERSEN: As far as the same type of land you mean, or what? [LR93]

SENATOR LOUDEN: Yeah, if it just uses the comparable sales. See, at the present time they... [LR93]

DAVE PETERSEN: Oh, you're talking about for property taxes for... [LR93]

SENATOR LOUDEN: Yeah, for property tax. [LR93]

DAVE PETERSEN: No, I think those things should be thrown out, I think, because they're unrealistic. It's not really what the land is valued at. Just because it sold for that doesn't mean it's worth that. [LR93]

SENATOR LOUDEN: Okay, I agree. Thanks. [LR93]

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DAVE PETERSEN: Yeah. [LR93]

SENATOR ERDMAN: Thank you, Senator Louden. Questions? Dave, one of the...one of the issues that Jeff touched on, and your situation that I know is different, you came back to your family's farm and operate that now. But for the folks, the young people who may not have a farm to come back to, do you see some of the same benefits that Jeff spoke of about allowing nonrelated farmers, not talking about folks who are farmers in the sense that, you know, you and I live across the fence row from each other and we raise cattle and try to grow wheat or corn or other crops? Do you see a value in that, and is that possibly an opportunity to help combat some of the out-of-state interests because you allow people to partner with one another locally to try to purchase some of that property? Or do you think that, again, is an unrelated balancing act between trying to help one side versus the other? And I guess the ultimate question I have for you is who should we be trying to help? Should we be... [LR93]

DAVE PETERSEN: Well, I'm not sure. I guess that's...that comes down to the function of government, and I don't think that government's function...I know it's become that. You know, over the last 200 years it's become more and more of a welfare type state as far as trying to help people, but that's not, to me, that's not the function of government. The function of government is to protect the citizens, not to try to make everything fair and try to level the playing field. And I think that's where, I guess, my word of caution came. I know that...I mean, it's admirable to help starting farmers. You know, I think it's great, and I think it's necessary on some (inaudible). I would prefer to see market aids, and maybe some tax breaks from...as far as the Legislature is concerned in doing those things, so that somebody selling their land to a young farmer would maybe...there would be some benefit in doing that, some incentive for him to do that, to partner with that young beginning farmer. I think that those would be great. But I would rather see it more focused on the market side than on the legislative side. [LR93]

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SENATOR ERDMAN: Okay. Other questions? I don't see any. Thank you, sir. [LR93]

DAVE PETERSEN: Thank you. [LR93]

SENATOR ERDMAN: Other testifiers, come on down. [LR93]

MIKE ZEILER: All right. [LR93]

SENATOR ERDMAN: David, can I get you to fill out a...? Go ahead and state your name and spell it for us, if you would. [LR93]

MIKE ZEILER: My name is Mike Zeiler, Z-e-i-l-e-r. I farm northeast of Minatare, 32 years old, so I guess I'm on the younger side of farmers in the state. The people that the fellow before me just spoke of that bought a bunch of land in the valley this winter and paid a humongous price, they own farms on all four sides of every farm I farm, and this is going to make it tough. The owner of this corporation out of state told me personally that there's no reason why land in this value shouldn't be \$4,500 an acre and he's going to drive the price there no matter what it takes. So how do you compete with somebody like this, that just sold a plot of land for \$100 million and comes out here and does a 1031 land exchange and doesn't think anything of what he has to pay? He's trying to farm a lot of the land himself. To the north of me, he bought a lot of highly erodible land. Last spring, they took our 1,700 trees that were planted, hand planted, by people that control erosion. One lady that farms next to him, where there's a break in her tree row, has a seven-foot drift across the field from sand. I've watched hay that was cut, center pivots that weren't shut off and ran over hay that has been cut, ready to bail. This is corporate farming in its finest. I've watched employees sleep all day with the tractor running in the middle of the field with the air-conditioner on. They're going to drive up our property tax because we all know it's going to be based on what these people are paying, and it has to be stopped. These people bought land while Initiative 300 was still intact, but they skirted it by letting the one son set up residence in the state of Nebraska

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and claiming he was working here, when in fact he was flying back and forth, to and from home, every day on a private jet. Something like this has to be stopped because bottom line is I can see the fellow before me's point. If you're an older producer and you want to sell your land, that's great. You can get a huge price. But bottom line is, in my lifetime I'll never be able to afford those prices, not with the input costs that we're incurring to raise this crop. Another problem I see is ethanol. We're all riding the ethanol boom and everybody says it's great. Bottom line is how is ethanol ever going to be successful when we're trying to market it through an oil company's gas pump? We've got a problem there. If you look across the state at places where they sell E-85, look at the price and then figure the mileage difference in your vehicle, and they have it relevant to gas. They've got it figured out to where they're never going to let ethanol be truly successful unless we have some kind of program to let these ethanol plants own their own pumping stations to combat this. I mean we look at oil companies that post billions of dollars of profit every quarter. I've got a relative that works for an oil company who just got a \$60,000 a year raise, and he doesn't even really have a good job there. I mean he got a raise on what the...more than what the most average of Nebraskans make. But the bottom line I see, as a young producer, is this corporate farming thing. We have to do something to put it in place and to keep people from skirting it. I mean we can't let this go on because the bottom line is I'm on rented land. My great-grandpa started farming for these people in 1928, and I still farm for the same family and as this land is passed on, the generations become more and more distant from it. So how long is it going to be till they just see the dollar signs and sell to these people? Like the one lady I farm for said, they approached her because they just bought 320 acres next to us for \$1.25 million. There were center pivots but had no wells. The people I farm for and another gentleman own farms right to the south that have center pivots and good wells. They wanted those to tie those wells in with the other two pivots, which is going to harm the ground water situation obviously. And the lady told me, they offered to sell it. She, they offered to buy my place, and she was thinking about selling it. She said, I'll give you first right of refusal. What good does first right of refusal do me at that kind of price? I mean bottom line is at \$4 corn, yeah, you can pencil out \$3,000 an acre. I can make

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that work. The reality is we're not going to have \$4 corn forever. We're probably going to have \$3 corn, or maybe \$2 corn in the near future. We have to find a way to combat this, pure and simple, because they're going to decimate...they're going to decimate this valley with the land they purchased. And they don't spend any money here. This outfit bought all their seed corn from Pioneer Hybrids directly, so nobody here made any money on that. They did buy some fertilizer here locally. Everything else was brought in. Machinery was brought in. I mean the help was brought in, the vehicles were brought in. The owner of the Ford dealership at Alliance told me himself they came in and priced pickups, he tried to shoot them a deal, they went back home and brought pickups in from 2,000 miles away. I mean these people aren't good for the economy whatsoever. And bottom line is what's going to make me stay here? I mean, I can't...just the rise in the property taxes could drive me out. [LR93]

SENATOR ERDMAN: Okay. [LR93]

MIKE ZEILER: That's it. [LR93]

SENATOR ERDMAN: Thanks, Mike. Any questions for Mr. Zeiler? Senator Louden. [LR93]

SENATOR LOUDEN: Well, I agree with about everything you said, and I agree that that's going to raise your property tax, and they were probably a 1031 tax-deferred exchange. [LR93]

MIKE ZEILER: Exactly. [LR93]

SENATOR LOUDEN: And, consequently, your property tax will be valued at whatever he paid for it. That's the way it works in Nebraska. I've tried to introduce legislation to change that, but up till now we haven't had much luck. As far as...I don't know how you can do anything to stop that. I mean it's a free country. Somebody has got the big

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bucks; they can come in and spend them wherever they are. It isn't right, but I sure...Mike, I sure don't know how we can do anything about it at the present time. [LR93]

MIKE ZEILER: Exactly. [LR93]

SENATOR LOUDEN: We're sure open to suggestions. And I want to thank you for bringing that point forward. [LR93]

MIKE ZEILER: All right. I guess I have to say, like these people taking out 1,700 trees, you got to start penalizing. I mean, they're not conservation minded. They're not stewards of the land. I mean, you have to compromise and bottom line is you have to take, you know, I mean, you guys know the people in the U.S. Senate and the House. You got to limit farm payments, pure and simple. And I mean as a farmer, honestly, I say eliminate the farm bill. Quit the handouts and let's do free market. Let's see who the last man standing is, who can be efficient, because that's what it's going to boil down to--who can market and who can be efficient. And if we take this away, I mean people like this, they figure how to skirt the payment caps, they figured out everything else. [LR93]

SENATOR LOUDEN: Thank you. [LR93]

SENATOR ERDMAN: Okay. Other questions for Mike? Thank you, Senator Louden. I don't see any. Thank you, sir. Appreciate you coming. [LR93]

MIKE ZEILER: "Alrighty." Thanks. [LR93]

SENATOR ERDMAN: We'll have you fill out a sheet as well. I'll also let you know that in the corner of the room back there, there are refreshments. There's coffee and tea and water. If you'd like to help yourself to those, feel free to do that as well at any time.

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[LR93]

ROBERT A POST: Appreciate you guys coming out here to hear what we have to say. My name is Robert Post, R-o-b-e-r-t P-o-s-t. I have a beef operation in Banner County, Pumpkin Creek. Probably the thing that I want to tell you about I don't know if Initiative 300 could have fixed. My thoughts on I-300 were we had it in; I don't know if it really worked or not. Things seemed to be going along fine and then it was repealed. Perhaps it wasn't strict enough. You look at the land purchases in the Sandhills, you know, it's pretty obvious that I-300 wasn't doing its job. [LR93]

SENATOR ERDMAN: Robert, can you see if you can get that mike a little closer to you? You might check and make sure it's on too. Think it's on. [LR93]

ROBERT A POST: Yeah. Okay, the issue that I have is, like the previous gentleman, I'm surrounded by an organization that is buying up land, and this land is for an environmental purpose and they, obviously, are paying way more than what the land is actually worth because none of this land is making the open market. It's just money trade, and the land is theirs. I don't know if that's a legislative thing that you can stop that. Everybody has a right to sell their property and should have the right to sell it at the high price, but the big issue that has come for me with this is, with some incidents in my family, we have to appraise our operation and our appraisal is going to be terribly, terribly skewed because of these recent purchases of like property. And so I'm faced with an appraisal that's way out of proportion. I'm going to have to pay taxes on that. I'm going to have to buy out my spouse's or make some kind of...not my spouse, my siblings, going to have to make some kind of arrangement with them and, quite honestly, they're probably going to see the values and think that that's a good thing. It's going to be really difficult for them to say, well, you know, the operation is supposed to stay in the family, but when you're looking at the values that they're facing it's going to be a challenge. It's like the 1031 exchanges. These sales and these trades should not be used for sales assessment, and they should not be used for appraisal purposes. It

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just throws the whole economy out of whack. And like I said, I don't know if that's something that could be addressed in an I-300 bill or some other way. But like Senator Louden says, most people aren't wanting to hear that we can't use those high values for assessment. But something needs to be done. [LR93]

SENATOR ERDMAN: Okay. Thank you, Robert. Any questions for Mr. Post? Senator Louden. [LR93]

SENATOR LOUDEN: I hate to bring you bad news, Robert, but you say you're selling an estate? I just... [LR93]

ROBERT A POST: Well, we're not selling it, but... [LR93]

SENATOR LOUDEN: But I mean it's got to go through an estate and you got to have an appraisal. [LR93]

ROBERT A POST: It's got to go through the whole...the process. Yeah, it's got to have an appraisal. [LR93]

SENATOR LOUDEN: I just went through that and let me tell you something. You're going to have to appraise that at what the county has it appraised by or else the county attorney won't accept it. And to me, that...it was a family operation and that was part of it. You know, you keep the land in the family and everything. But you still had to have this high value to pay your inheritance tax, your county inheritance tax on it, and the county attorney has the authority over that to decide whether or not you've got the right appraisal on it, so... [LR93]

ROBERT A POST: Let me tell you, I would be glad to be at that level. This is a lot worse than that. These values that they're appraising are a lot higher than the county valuation. At this point I'm not contesting the county valuations. I'm attesting these

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appraisal valuations that are going to be used. [LR93]

SENATOR LOUDEN: Well, your county valuation will be right next to whatever the land is selling for. They certainly are in Sheridan County. I don't know about Banner. Maybe you're lucky down there. I know you've had some county commissioners that have pretty near got thrown in jail over property tax valuation a time or two, but...and I wish you luck. But you're right, I think the 1031s and some of that, and really that isn't necessarily an Initiative 300. This is something that could come through the Revenue Committee and has been introduced several times but it never gets out of committee. [LR93]

ROBERT A POST: Well, you know, if you want to keep the young farmers on the farm, you got to figure out how to make that possible, and these appraisals and these taxes is not going to make it work. It's going to be very difficult. [LR93]

SENATOR LOUDEN: Thank you. [LR93]

SENATOR ERDMAN: Thank you, Senator Louden. Further questions? Robert or Bob, which do you prefer, Robert? Doesn't matter... [LR93]

ROBERT A POST: Doesn't matter. [LR93]

SENATOR ERDMAN: ...as long as we call you? [LR93]

ROBERT A. POST: Yeah. [LR93]

SENATOR ERDMAN: Okay. Robert, one of the things that you obviously want to consider when you're...not that I want to give you preappraisal advice here, as an appraiser, but you obviously want to have those conversations with them. Because one of the things an appraiser has to consider is whether it's an arm's length sale. And so

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when they're selecting those comparables, you obviously want to make sure that, if those sales that are next to you were not openly marketed and offered for sale, that that has to be considered by the appraiser. Otherwise, they're violating the standards that the FDIC has set, as well as the ones that they have to follow and I have to follow as an appraiser. But I understand the situation that you're in. A couple years ago, and I think Senator Karpisek has introduced this bill this year, is dealing with valuing land at...based on what it can produce as far as income. I think Nebraska is the only major ag producing state left in the nation that does not value ag land based on income production potential. It bases it on sales. You can go to a number of other states around us and they've done. You still may have an issue where it's recreational land versus ag land next to one another, but do you see that as a state solution? [LR93]

ROBERT A POST: Well,... [LR93]

SENATOR ERDMAN: I think Senator Loudon is right, the 1031s may or may not be beyond our control as far as the ability for them to do it. Whether they're included as taxes, I think we can have that battle and I think as they become more prevalent in impacting folks that live east of Kearney, as he mentioned earlier, that might get some attention. But do you see that as a possible solution that may alleviate? [LR93]

ROBERT A POST: Well, that's a great idea. And I don't know if any of you know my father-in-law who was a clerk in Banner County years ago, but he tried doing that 25-30-40 years ago and absolutely never got anywhere in Lincoln with it; testified many times. But that's absolutely what needs to happen. Ag land needs to be valued for what it will produce. We can't pay taxes on it if we can't produce it. That's just the bottom line. [LR93]

SENATOR ERDMAN: Think the first chance I had to meet Senator Loudon was when he wasn't a senator and it was a public hearing on, I believe it was, LB600 that was introduced by Senator Karpisek's predecessor, Senator Coordsen. Good idea. Again,

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the way that the formula was written, it would have actually raised our taxes, but from the standpoint of public policy, I think we got that bill out of committee. But again I think it's something...and again, as I mentioned earlier, we're not simply trying to look at one aspect. There's a lot of aspects that contribute to the pressures and the situations that we find in rural Nebraska, specifically in production agriculture. And so, you know, we're interested in hearing those perspectives and, most importantly, what's affecting you. Maybe there is a legislative solution and maybe there's a market solution, but we appreciate sharing your perspective and getting feedback from you. Is there any other questions for Mr. Post? I don't see any. [LR93]

ROBERT A POST: Thank you. [LR93]

SENATOR ERDMAN: Thank you, sir. Next testifier, please. I notice we have quite a bit of tea and coffee still over there, so help yourself, or reward yourself. If you've testified, go get yourself a nice cup of coffee. [LR93]

JEFF NICHOLS: I am Jeff Nichols, N-i-c-h-o-l-s, a family producer from northeast Scotts Bluff County, northeast of Minatare. I have a few feelings on a lot of the subjects we've talked about, but on Initiative 300, by keeping some of these large corporations out I think we're doing a benefit to the state. We've seen what has happened in the past--large insurance organizations buying land, developing it that shouldn't have been developed, and then abandoning it later and letting it blow. We know what happened back in the day with that. The only downfall (inaudible) with a rewrite in someway we could allow younger producers ability to join together, form a corporation where you say they're...I don't know if you want to put distance rations or whatever, to market stuff together, things like that, where they derive a majority of their income from, the corporation, from agriculture, may it be cattle, may it be corn, whatever, but that over 50 percent of their income comes from the operation. And I see that being a very good thing and help some of these younger guys get started. They could go in with an established landowner and use it for transition. They could get two younger guys

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together and have a little more marketing and buying power and do it that way. And that way they could have a little bigger chance to get started. You know, personally, with me, and it's a family operation, been there since 1885. I'm the fifth generation on the place. But I've seen some guys I went to school with, some like that, not be able to make it from the costs and everything (inaudible) coming, between taxes and input costs and land costs. They have just washed out. And most of the guys I've gone to school with, there are very few left my age, and you get younger than me, even less. And, Phil, you know all about that in Morrill County. The same thing is happening there. There isn't very many of us because nobody can afford to get started the way everything is now. Equipment costs are high. Land costs are high. Taxes are high. By allowing the younger producer to incorporate with someone else and have income derived from that corporation, it would allow them a foothold to get started in this high-input-cost profession. Ten thirty-ones, we personally have used the 1031. We didn't sell real high value land. We just sold one parcel and bought one next to us. There's no way around it. I think it's actually a good thing to have 1031s as long as it doesn't blow the valuation out of proportion. So as long as the land is valued appropriately for everything else around but not off the 1031 exchange, where someone may pay substantially more because they have that money to spend, I think 1031 should stay. I could go into Class I stuff, but I'm not even going to start. [LR93]

SENATOR ERDMAN: (Laugh) Jeff was a board member, I believe. [LR93]

JEFF NICHOLS: I was a former Class I board president. [LR93]

SENATOR ERDMAN: Yeah. All right. Any questions for Jeff? Senator Karpisek. [LR93]

SENATOR KARPISEK: Thank you, Senator Erdman. Jeff, I'm going to ask you the same thing I asked the other Jeff. You could...these young farmers could go into a partnership now or...well, when I-300 was in. Do you need the corporate veil to make a partnership work? And if so, why? [LR93]

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JEFF NICHOLS: Um, I think the availability of having as a partnership, I mean a corporation over a partnership, you can assume the liability is with the corporation. If one partner does something and it doesn't necessarily tie the other partner into the liability, if you're a shareholder and the corporation has the liability and not the individual. That way one person doesn't necessarily harm the other. And it sets things more in stone of who owns what. And if the corporation owns the property and you have shares, if you decide you want out you can sell your shares and you're not hassling over every little piece as you would in a partnership. [LR93]

SENATOR KARPISEK: I guess part of my concern is, like Dave said, if you help one, you hurt someone else. So we're talking about the veil of the corporation to take the liability off, but then who does it put the liability on? [LR93]

JEFF NICHOLS: The corporation would have the liability, and I guess, you know, if there was legal action against the corporation, you still would have the CEO of the corporation, whatever, being liable for the actions of the corporation. But it helps the individuals, and especially if you have more than two people. If you...and maybe you want to have a third person in there, or whatever it's going to take, to develop this corporation or have the funds or equipment available. With that corporation, you can specify who is liable for what, who owns what, and you can tax under one entity instead of three entities for property, personal property, and land. [LR93]

SENATOR KARPISEK: Again, my concern is a sale barn gets hung and they go after the corporation, the corporation files bankruptcy and there's that corporate veil there and they don't go back on to...can't go back on to the two or three partners of the corporation. Now I'm not so worried about two or three people around here, but I do...I am concerned about out-of-state interests,... [LR93]

JEFF NICHOLS: Uh-huh. [LR93]

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SENATOR KARPISEK: ...landowners that don't...probably never seen the land. [LR93]

JEFF NICHOLS: Some of my thoughts on that, I know there's issues when you get near state lines and things like that. I would think, if they derive a majority of their income from the corporation, I would think they would...should be a legal resident of the state. And I know there's going to be some issues with some out-of-states and maybe one of them will establish residence here, however. But if we don't have something like I-300, what's going to stop them, some of the multinational corporations come in and having a product to finish and just a vertical, integrated system, and just taking over? [LR93]

SENATOR KARPISEK: And I guess that's what my point was. Where do we draw that line between two or three people or a multiconglomerate corporation? And do you think that that...I mean, would be, if we could...we've talked about having less than ten shareholders in the corporation. Would that be something that you would think, like five of us could go together that farm out here and... [LR93]

JEFF NICHOLS: Well,... [LR93]

SENATOR KARPISEK: ...and be a corporation but not a...somebody that has 10,000 shareholders? [LR93]

JEFF NICHOLS: I don't think a publicly traded corporation should be able to buy and set up that way. And maybe you could go on that specification, if it's not a publicly traded corporation and it's just a private corporation or two family corporations going together in under a third. [LR93]

SENATOR KARPISEK: Very good. That's what I was trying to get out, is where is that line? [LR93]

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JEFF NICHOLS: Yeah, I think publicly traded would be a good point, you know, a publicly traded corporation compared to a private owned corporation. [LR93]

SENATOR KARPISEK: Uh-huh. I'm no lawyer and I...part of my concern is will the courts uphold that if somebody challenges it? But... [LR93]

JEFF NICHOLS: Uh-huh. Well, I think some of that is up to your writing of that, though, isn't it? [LR93]

SENATOR KARPISEK: Yeah, well,...(laughter). We'd ask Mr. Leonard on that. All right, thanks, Jeff. Thank you, Senator Erdman. [LR93]

SENATOR ERDMAN: Thank you, Senator Karpisek. Senator Hansen. [LR93]

SENATOR HANSEN: Thank you, Senator Erdman. Jeff, I got a couple of questions, I guess, for you. We have a person in the Sandhills of Nebraska that is not a corporation, that is an individual that has bought up over 300,000 acres. Perfectly legal, because he bought it all in his name; no corporation involved. I'm more worried about, say, an elderly farmer, an elderly rancher, doesn't have any kids that are interested in that operation. He still doesn't want to sell to necessarily that person, but he wants a younger person. So that younger person comes in, he has the equipment and the land, too, but does he need to form a corporation to limit his liability for the rest of his operation? If a younger person comes in and wants part of that action, can he do that without a corporation? [LR93]

JEFF NICHOLS: Well, Senator Karpisek was talking about the partnership. I still believe the corporation is easier to assign responsibility, liability and assets. [LR93]

SENATOR HANSEN: I agree. Thank you. [LR93]

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SENATOR ERDMAN: Thank you, Senator Hansen. Jeff, prior to January of '07, we had corporate farming in Nebraska, did we not,... [LR93]

JEFF NICHOLS: Yeah. Yes, we did. [LR93]

SENATOR ERDMAN: ...called family farms? Family corporations could be established in the state of Nebraska. One of the things that I think is important for us to go through, and I appreciate the way you've testified, is that when you draw the line you have to figure out how to draw that line. Twenty-five years ago we drew the line as relatives that were the folks who were eligible for that, and we've portrayed and tried to convince the courts, unsuccessfully, that that was a legitimate state interest; that they were Nebraska's or that they were family farms. And it has been interpreted over the years, through court cases, that they were Nebraska family farms. One of the things that we have been told and I think we're trying to be conscious of, and so I appreciate kind of the demarcation that you've given us, is where do you draw that line? One of the options that was given to us and I think is probably legally sound is to say that if you're a family farm in any state, including Nebraska, you should be able to form a corporation or an LLC in the state of Nebraska. It doesn't alleviate, possibly, the situation that Mr. Zeiler pointed out where a family member from another state came in, but from a standpoint of some of the other ideas, those are out there. But I appreciate the way that you've testified. I think one of the things that you find also is that the opportunity to be creative in figuring out how any farmer...and I say young farmer. It could be somebody who's 50 years old, just starting. It could be somebody...you know, we talk about age and different things differently. But from the standpoint of who we're trying to provide an incentive to, the folks that are going to be able to buy that land, as opposed to maybe a wealthy individual from another state in the mid-South, would have a probably better of being successful in going together and purchasing that property together in some corporation or in some partnership, unrelated or not, if they had those opportunities available to them which provide additional competition in the market that would be good for those local communities. And those are all the things we're trying to sort out. But I

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just wanted to say that I appreciate the time you spent thinking about this and gives us something to go back and consider. Other questions for Jeff? I don't see any. Thanks, sir. [LR93]

JEFF NICHOLS: Thank you. [LR93]

SENATOR ERDMAN: Next testifier on LR93, please. [LR93]

THORPE THOMPSON: Thorpe Thompson from Dawes County, very north...Thorpe, T-h-o-r-p-e, Thompson, T-h-o-m-p-s-o-n, very northwestern part of Dawes County where I (inaudible) South Dakota and Wyoming. Several years ago, I don't know how long ago, but the Panhandle actually tried to get Wyoming to take us in. Is that still an option? (Laughter) Or South Dakota, whatever. But I don't know if Initiative 300 is really the problem. We don't want to stop free enterprise working. Just like Mr. Hansen said, you know, is it a corporation or is it an individual that has mega backing, or is it a church organization? I don't know how you...I don't know how you draw the line of how big of a corporation can come in or what qualifies them as that. One of the biggest things, you know, what's your goal? What's, as a state, what's our goal? Is it to keep...is it to keep the family farm alive? Is it to keep young people coming back in to agriculture? Probably one of the biggest things in our area that's hurt our...what has deterred so many people about coming back in, young people coming back in, is they can't compete with the land values. Ten thirty-one tax exchanges has hurt us tremendously. A few years ago, we tried to buy a place and we basically had the deal closed. A family from back east, back in Wisconsin, 1031 tax exchange, came out and offered the guy \$100 bucks an acre more. We couldn't come up with it. He got it--1031 tax exchange. We did buy...we have...we're very versified. We have a heifer development program. We commercially A.I. (inaudible) heifers. I have a livestock farmers (inaudible) local business. We're very diversified. We bought a piece of property two years ago and we are very lucky because we agreed on the price with the seller five years ago, when we started leasing it, before the land values really took a big jump. So we're very lucky at that point. A piece of

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ground right across the road from us which came up for sale we've had leased for two years. It came up for sale this spring and the family offered it to us--three times the value of what our...of what we paid for our place. I went to the real estate agent and said, where in the heck...how did you value this place at this much, and she told me the comparisons that they had used, like comparisons, three comparisons. All three of them were 1031 tax exchanges. How can I compete against that? They valued the place three times more than what I paid for mine and all those three like sales were 1031 tax exchanges. That's probably hurt our area worse than anything. Who's the 1031 tax exchange benefiting? Like in Jeff's case, where they traded like land, there wasn't a huge increase. In certain situations I can see where there's a purpose for it, where it's trading like land. All three of these places that were sold that were 1031s, they weren't like land. They were housing developments or lakefront property in Michigan that they've sold. You know, they're not comparable. They're not comparable sales. So where's our basis? What's the purpose of the 1031? Personal property tax, you know, the young people, you know, if we didn't have to pay taxes, if we didn't have to come up with taxes, it would be all right. A guy could might make it work. Just like you said earlier, we're not following what the other states are around us with our...our ag land values aren't based on revenue. They're based on evaluations. You look at Wyoming. I think they've capped at a 45 percent, 45...oh, I can't... [LR93]

SENATOR ERDMAN: The mill levy you mean? [LR93]

THORPE THOMPSON: Yes. [LR93]

SENATOR ERDMAN: Forty-five mills? [LR93]

THORPE THOMPSON: Yes, on 45. Where are we going compared to the states around us? What...discrimination on I-300, who are you discriminating against? You know, I don't know. I mean you can't...you have to let free enterprise work. These big corporations, they're going to find a way to come in, it seems like; somehow they're

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going to find a way to come in and buy property. And just like Mike said, are they really benefiting the local economy? You know, I can't go out and get a tax...get a price break like those guys can because I don't do enough volume. But if I can combine with a bunch of my neighbors we can. But, you know...and we work with a bunch of...big corporation that we A.I. for. Where's all their stuff come from? Where's all their...just like Mike said, their vehicles, their supplies, their fertilizers, their chemicals, they go straight to the manufacturer. They're not doing the local economy a whole lot of good. But just like you talked about, where do you put that limit on how many people can be involved in a corporation? I don't know. That's a tough question. You know, I think go back to what our focus is. Are we trying to keep the younger farmer/rancher? And I don't know what the optimum age is. The young farmer/rancher isn't very young anymore. I mean, in our area there are very, very few young farmer/ranchers getting involve. I mean we're one of the youngest ones in our area, so I don't know what the answer is. [LR93]

SENATOR ERDMAN: Thank you, Thorpe. Any questions for Mr. Thompson? Thorpe, good to see you again. Hope your family is doing well. [LR93]

THORPE THOMPSON: Perfect. [LR93]

SENATOR ERDMAN: I picked up something that you said, and you kind of followed up with it there as well. You talked about whether we're trying to promote the young farmer, family farmer, bring young people back into ag, as if they may be two different things or they may be the same thing. One of the...and they could be either one. It doesn't necessarily matter. One of the things that we recognize is not everybody can come back and farm. Because of the new technology that's available, you know, folks used to use a couple-row, six-row cultivators, planters. You know, now you're 16, 24. I mean some of these operations are quite large and the way that you can minimize some of the cost is by becoming more efficient, by utilizing the new technology that's available. Earlier was mentioned about the ethanol boom and some of those things, and I think even Jeff and others...Jeff Metz and others may have mentioned this. A component of this that you're

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involved in is livestock. We've talked a lot tonight about production agriculture, specifically crop production or maybe some ranching, and just simply the input cost, whether it's the land or the cost of production. As you look at the livestock industry in the state of Nebraska, your humble opinion, what needs to be done to promote that industry? Some would argue, and I would tend to agree with them, that it's the most logical and most efficient value-added entity that's been created. How do we promote that in the state of Nebraska and what are some of the things that you think we should consider as we try to go down that path? And does I-300 fit into that discussion? [LR93]

THORPE THOMPSON: I don't know if I-300...I mean, there's not a lot of the big corporations looking at and coming in and buying...looking at cattle as an investment. I mean, they're looking at more cropland, stuff like that, from my...that's my opinion. With the ethanol boom, it's very beneficial to Nebraska to the livestock industry. In our area, we're not seeing quite the benefit just because we're far enough away from the ethanol. I mean, we don't have, you know, we put in two pivots of corn this year, the first corn that's been grown in our area in 30 years. We're limited on water. We don't benefit...we don't benefit from the ethanol boom like they do down in this area. If they're going to put a plant down here, you know, they're close. We are feeding the dry distillers, but the freight is what kills us on that. It's kind of a tossup. You know, half the cost of your product is freight. Guys in this area, if they're close to a plant, more power to them. It's a huge benefit. My concern is with the ethanol they're passing up a lot of product. If the oil business...if the oil sector, petroleum sector, comes in and say, okay, we're going to drive the price of oil down, we're going to drop the bottom out of the price of oil, what's going to happen to the ethanol? I mean, these guys have a break even. I don't know what the break even is on them. But it gets down to that point, they're going to start taking that by-product and get more out of it. I mean, there's actually plants out there that are doing that. They're...I mean when that product, when that kernel gets done, it's nothing but ash. Are we setting ourselves up for that? I mean that's a concern. I don't know if I answered your question or not. [LR93]

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SENATOR ERDMAN: Well, and just to keep going with that, not everybody can come back and farm, but there may be opportunities for folks to come back and start a livestock operation, or there may be opportunities for something to be involved in an agribusiness that's a part of one of those three industries, which is either renewable fuels or crop production or livestock production or all three somehow, which would be an integrated chain that would be beneficial. I guess the question I have is do you see any opportunities for the expansion of livestock in the state, and is that something that we as a state should have an active policy in doing? Because again, tonight we've talked a lot about crop production or land values, but specifically to livestock, as a livestock producer, do you see opportunity or do you see that we've peaked or what are the things that would make opportunity look more attractive to everyone, not just young farmers but everyone that would like to be involved in agriculture, or promote the rural lifestyle that I think we all appreciate? [LR93]

THORPE THOMPSON: I think the livestock industry, what...just what your dad did or your grandpa did and get by, you've got to...I mean, you've got to do something different. That's why, you know, that's why I have an A.I. business or a pharmaceutical business because I can't...you know, that's what helped us get into our place. It wasn't...it wasn't the livestock or it wasn't the farming. We could never have afforded it. That's what helped us. But I just...you know, the livestock industry is going to expand. I mean, our numbers are down. Are markets are good right now. Our numbers are down. The drought or the...if we could break the drought, that would help tremendously. In our area, it's mostly rangeland. So I just, you know, agriculture/livestock industry in Nebraska has tremendous outlook, but, you know, we've got to...and it takes pooling several producers together to have enough volume of a product that they can go out and sell market, and that goes back to your liability issues of forming multiple partners. [LR93]

SENATOR ERDMAN: Okay. Other questions? I see none. Thank you, sir. Appreciate your testimony. [LR93]

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THORPE THOMPSON: Thank you. [LR93]

SENATOR ERDMAN: Okay. Next testifier. [LR93]

TIM HRUBY: I'm Tim Hruby, and that's T-i-m, and then it's H-r-u-b-y, and I'm from, well, Box Butte, Dawes, Sioux County. I can about throw a rock at all of them, but I live in Box Butte, and... [LR93]

SENATOR ERDMAN: I had an arm like that once. [LR93]

TIM HRUBY: What's that? [LR93]

SENATOR ERDMAN: I had an arm like that once. [LR93]

TIM HRUBY: (Laughter) From the mailbox, I'm right there in the corner. But basically, I just wanted to reiterate and thank you guys for...you know. Tonight we've talked a lot about the young farmer/rancher and I think it's...you guys seem like you have your heart in the right place, trying to help us out, not that the young guys are really looking for handouts or anything, but anything to help us get back in the business. Myself, I'm working for an absentee landowner and I have purchased some cattle through the ASCS office, helping with some deals like that, and I'm trying to build up some equity so I could, in the future, buy some land. The only thing--I think Senator Loudon touched on it a little bit earlier, we talked about it for a second--was there is benefits for people who lease to a young farmer/rancher right now, who lease their cropland. But as far as I can find, I couldn't find any benefits to somebody that would sell to a young farmer/rancher. You guys can correct me if I'm wrong, but I couldn't find anything in my research. There was some tax benefits if you would lease land, and I believe it's a three-year or five-year that you had to be set up or, something along that lines. Three years? Okay. I thought it was three. But anyway, from my standpoint, and this is just personally, I would like to

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see something along that line come along. Somebody else was talking earlier that when the corporate people come in, they can offer more money. Well, what if the young guy could go, you know, I can't offer you that money, but if you sell through me, I can offer you a tax break through the government, you know, or something along that lines. I don't know the answers. I just wanted to throw it at your guys and appreciate any feedback on it. The other thing we've talked a lot about tonight, price versus income potential, and I'm with the income potential too. In our area it's just...people can come in and buy the land and they're really not needing to make a profit on the land. You know, they can pay whatever they want. And if, you know, if we were to get some land bought right now, the taxes would just drive us out, too, so... And then the other thing, Senator Hansen touched on people buying these large land masses, and this is just a question I have for you, but what if that land would happen to get donated to an entity that would take it off the tax bases? And I'm sure this has been brought up to you, but we've heard some talk about it, you know, if it would get donated to the natural resource or some, you know, something where it went off the tax bases. Do we have any protection over that or is Cherry County going to just dry up and blow away. I mean, and that would kill the young guys that would own the land. If all this land gets donated off the tax base, well, we're going to get...I mean, we're going to get the taxes somewhere. It's got to come from somebody. So basically, it's just a few questions I have for you and I don't know a lot of answers about the I-300. I'm, basically, I'm just still out there trying to figure out my point of view on it. But I would answer any questions for you guys or take any feedback from you. [LR93]

SENATOR ERDMAN: Okay. Thank you, Tim. Any questions for Mr. Hruby? Senator Loudon. [LR93]

SENATOR LOUDEN: I can answer part of it, when you talk about what they might give these large land masses away. At the present time, unless statutes get changed, and that can happen, like they say, nobody's life, liberty, or property is safe when the Legislature is in session. (Laughter) At the present time, if land is...the Game and Parks,

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if it's wildlife preserve, they have to pay the same tax rate as land. If it's a parkland, then they don't pay any property taxes on it. That's for the Game and Parks. That's the way that works. [LR93]

TIM HRUBY: Okay. [LR93]

SENATOR LOUDEN: The other problem is your church. The question was the Mormons bought a lot of land right around where I live and they agreed to pay the property taxes on it. As long as it's shown that they're selling those livestock and making money or running it as a business, then they probably have to pay property tax. Any time that they can show that they're taking every one of those critters off of there and putting him in a can someplace to feed to needy people or something like that, it could probably come off the tax rolls. That's the kind of line that we're walking... [LR93]

TIM HRUBY: So what it is a legitimate concern then. [LR93]

SENATOR LOUDEN: ...that we're walking on right now. [LR93]

TIM HRUBY: Yeah. [LR93]

SENATOR LOUDEN: And I don't know if there's any way to change that, because that's more or less the way it's set up. But at the present time, they're all on the tax rolls. [LR93]

TIM HRUBY: Okay. [LR93]

SENATOR LOUDEN: If it goes into some other nature conservancy or something, they have to pay taxes at the present time. But hopefully nothing will change and it will stay like that. [LR93]

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TIM HRUBY: Okay. [LR93]

SENATOR ERDMAN: Thank you, Senator Louden. Other questions? [LR93]

SENATOR KARPISEK: Can I ask Senator Louden a question? [LR93]

SENATOR ERDMAN: No, you can't ask Senator Louden a question. (Laughter) That's what you have the legislative session for, Russ, is you can, in those quiet nights in Lincoln when we're the only ones on TV. [LR93]

SENATOR KARPISEK: I'm busy on those nights. [LR93]

SENATOR ERDMAN: Thank you, Tim. Appreciate it. Appreciate your insight. [LR93]

TIM HRUBY: Well, thank you, guys. Thank you very much. [LR93]

SENATOR ERDMAN: Make sure Thorpe fills one of those out too. [LR93]

TIM HRUBY: All right. [LR93]

SENATOR ERDMAN: You didn't come all the way down here just to watch, did you, Cash? [LR93]

CASH OSTRANDER: Honestly, I did. [LR93]

SENATOR ERDMAN: Okay. Anyone else want to testify on LR93? [LR93]

CASH OSTRANDER: However... [LR93]

SENATOR ERDMAN: (Laughter) Ah, it's the power of suggestion. [LR93]

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CASH OSTRANDER: Cash Ostrander, C-a-s-h O-s-t-r-a-n-d-e-r. I'm a cow/calf producer in Sheridan County. I am also on the Gordon-Rushville School Board, as well as the ESU 13 board. I am currently the third generation on a family farm, a ranch, and hopefully the fourth generation is going to graduate in March, hopefully. (Laugh) [LR93]

SENATOR ERDMAN: Some question there or...? [LR93]

CASH OSTRANDER: Yeah, it might be June, but who knows? [LR93]

SENATOR ERDMAN: Okay. [LR93]

CASH OSTRANDER: I guess my concern here today is how do we pass the asset of the land to the next generation? I personally purchased it. I came into this in the eighties, when the land values were really poor. [LR93]

SENATOR ERDMAN: Cash, can you speak into the mike a little better? [LR93]

CASH OSTRANDER: I purchased or I came into this in the eighties. [LR93]

SENATOR ERDMAN: You can take it out of there, if you want to. [LR93]

CASH OSTRANDER: No, no, that's okay. [LR93]

SENATOR ERDMAN: Okay. [LR93]

CASH OSTRANDER: I'll just scoot up. And land values were really poor. They got poorer the second year I was in the business and my loan officer sat across the table from me and essentially said, cut your budget or sell the asset. And family farm, family ranch, as far as I'm concerned the asset was not to be put at risk. In other words, it had

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no value to me because I couldn't sell it. So, yeah, we did some scratching and we made it work. How do I get this into the hands of my son? And I guess what I'm looking at here, honestly, is the estate part of this and when you speak of a family farm, family ranch, family land, truthfully, it has no monetary value. It's worth what you can produce on it, yes, and that helps you pay the bills, helps you operate. But if it's to stay within the family, you can't sell it; therefore, it has no monetary value to you. Does to somebody else, and they value it that way. Just something that I thought of here the other day, quite simply, if this was willed to somebody in their estate, we tax it currently, and I've seen many a good ranch get sold because they couldn't pay the taxes as well as purchase the land from the other heirs. My suggestion, and just throw it out for thought, would be, quite simply, there should be no tax on an asset that does not have a monetary value. Other words, you can will land, the land itself. I'm not talking personal property or any other assets. Just the land itself ought to be able to be willed to somebody, as long as they don't sell it, without taxes. If they sell it, then you need to tax it. So I could will land to my son at my death; therefore, transferring that asset into the next generation, and he wouldn't have to buy it. Now you say...we'll go back to this if you help some one person, you hurt somebody else. Truthfully, this doesn't hurt anyone. It helps him move into this next generation. He can continue to operate. The only thing we're seeing is a reduction in tax values or taxation, I mean, the money from taxes. If the land is sold, you get the tax dollars. This keeps your individuals that are currently out there, your young people; it gives them a chance to be there. Now there's a lot of problems with this, I understand that. Like I said, I thought of this a couple days ago. This takes a lot of thought and a lot of work to make something like this work properly for everybody, but it's some place to start maybe. Back to I-300, I think it did what it was supposed to do. It kept the insurance companies out of Nebraska. It didn't say anything about Ted Turners and the Mormons and some of those others to start with. It wasn't made to address them. So I would take questions if you have them, not that I can answer them. [LR93]

SENATOR ERDMAN: All right, Cash, I'm going to be the...I'm going to be the

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government who's here to help tonight. I'm going to be the bearer of good news. The Nebraska Legislature, in its talent and wisdom, this year repealed the estate tax in the state of Nebraska. That helps. We didn't repeal the inheritance tax. We increased the exemptions. But part of what you're asking for, as far as the estate side, we granted your wish. It doesn't cover all of those circumstances, but you're welcome, for repealing the estate tax. (Laughter) I know you've asked for it and rarely do we have the opportunity, as a Legislature, to say you got it, but tonight I can safely tell you, you got it. (Applause) The...you can applaud for that. [LR93]

CASH OSTRANDER: It helps, yes, it certainly does. [LR93]

SENATOR ERDMAN: That was not vocal display of support or opposition to the testimony today. That was just good feelings. One of the biggest arguments for that, that I and others that come from agriculture made, was the fact that you cannot pass a family farm on if you have to pay the tax to keep it in the family. And the cases that you talk about where a family sells...has to sell the farm to pay the taxes is a detriment to that family, and I think this will be a benefit. Obviously, some argue that you're just benefiting the wealthy. The asset that you have may be worth something to somebody, and if you sell it, it may be more valuable to somebody else than it may be to you. But if you can't afford to pay the tax based on what it's worth to somebody else, it's not worth anything to you and you have to sell it. So from the standpoint of making that argument, people say, well, you know, family farmers, you know, they don't need this benefit. Family farmers have to have hundreds and thousands of acres in some areas to make it, and others they can do better, but they still have a lot of assets but maybe not a lot of income. And so one of the arguments that was made during the legislative debate was that, so we're grateful that we have done that. And obviously, more work could be done and we'll take your recommendation and we'll spend some time thinking about it. I know you probably thought about it some more driving down here. But here's a question that I have for you because you serve on an ESU board, you serve on a school board. If we go from a valuation-based approach, in other words a sale-based or a market-based

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approach on valuing ag land, and most of the rural counties out here, most of the rural counties in the state, that is a big portion of where they collect their property tax from, which a majority, 75-80 percent of that, ends up in those school districts or ends up in some form of education or basic services. So you have two options. If you go to an income-based approach and it would somehow lower the valuations, or maybe it doesn't lower them, maybe it more appropriately values them but doesn't take into account some of those increases in valuation that you see because of the outside pressures, are you, as a school board member, more comfortable with allowing the state aid formula to try to make it up in those cases? Or, in the event that it doesn't, how do you come up with the revenue to fund the schools locally if you've shifted the burden from one side of the industry in rural Nebraska to maybe an industry that doesn't exist? How do you still make it work? I think that's going to be the obvious question we're going to get, because people are going to assume we're going to transfer the debt or the cost of those types of situations to the urban counterparts from the ag counterparts now, who possibly could be paying a disproportionate share of the cost of operating some of those entities. I know I've capsulated it. I know I have identified the problem, which we're very good at. We're good at identifying problems, but we're not necessarily experts on problem solving. [LR93]

CASH OSTRANDER: Right. [LR93]

SENATOR ERDMAN: But what's your perspective? I mean have you thought of that? As a school board member, I know you have to sit there and look every March or February when we certify state aid, and you wait until we adjourn to make sure that that number was actually funded. And you look at your student enrollment, you look at the buildings that you have, you look at the cost of insurance for your teacher. I mean, all of those things go into the cost of operations. We all want good schools in rural Nebraska. In spite of some of our friends in Lincoln that don't want us to have schools in certain areas, I mean, we still strive for that. (Laughter) But if we shift it, how do we still do it? What's the answer to that argument? [LR93]

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CASH OSTRANDER: Yeah. Well, I'll start by saying that, as a school board member, I have appreciated the increase in evaluations. It's made my job much easier. I know the last several years we have not had to look at raising levies because the evaluations increase enough to offset the increased cost of doing business. I guess inflation is keeping up with expenses, you might say. However, I understand where you're coming from with this and, yes, if we make that shift, it's going to be extremely tough on rural schools, extremely tough. I would not expect our urban counterparts to sit at the table willingly and divvy up the money that would need to be put up to be out set, the taxes. That said, the answer is probably in less regulation on the school districts themselves and allow the local school boards some opportunity to say what they will do and what they won't do. As it currently sits, we're buried in regulations and what...and requirements. [LR93]

SENATOR ERDMAN: So you're...the solution may possibly be more flexibility for curriculum or certain things locally, and less time or expenses being spent on regulation and meeting regulations in certain areas that you may not have that need but are required to under state or federal law. [LR93]

CASH OSTRANDER: Yes. [LR93]

SENATOR ERDMAN: Okay. [LR93]

CASH OSTRANDER: That would be...yeah, in a nutshell, that's what it is. [LR93]

SENATOR ERDMAN: Okay. Other questions for Cash? Senator Louden. [LR93]

SENATOR LOUDEN: Oh, one point, Cash, I was going to make when they were talking about, you know, if you do something good for somebody it takes something away, Warren Buffett got the same advantage that you did when we passed that law.

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(Laughter) [LR93]

CASH OSTRANDER: The problem that I saw with the law...I appreciate what you guys done because it's great, but in particular, I'm speaking of just the land asset itself. I don't think personal property...personal property, I think, ought to be dealt with differently. I can go out, work for a wage, and my wage is paid to me at market value. I can go buy cattle. They're paid for at market value. When I sell the calves, I get market value for those. The land is a different entity because, in a family operation, you can't sell it, not if you're going to move it to the next generation. It needs to be valued and handled completely differently than those other assets do. I have no problem with taxing personal property. Everybody pays it. If you own it, you pay it. The only tax I'd like to see better than that one would probably be a greater sales tax, because then if you spend the money you're going to pay it, so... But the land itself is a different bird to play with. If you want individuals to stay on that land, you have to do something that allows them to do that. Today's market on land is not reflective of what that land is used for. These guys are talking about entities coming in from out of state and buying land. They've sold land at a higher value; come in here and buy ours at a lower value. You can't tromp on their rights without tromping on your own. And people have asked me about Ted Turner and I tell them the same thing all the time--you tromp on his rights, you're going to tromp on your own. Therefore, if you're going to move that land, we have to look at it in a different light than we do personal property, than monetary value. I mean it's just...money is money. Land is not money. [LR93]

SENATOR ERDMAN: Okay. Thank you, sir. Senator Karpisek. [LR93]

SENATOR KARPISEK: I just want to make...Cash, I wish my dad would have had the same opinion on land as you do. We saw the value in it and now I don't get it.

(Laughter) So, from your son, thank you. [LR93]

CASH OSTRANDER: Okay. [LR93]

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SENATOR KARPISEK: Thank you. [LR93]

SENATOR ERDMAN: We are now running an adoption agency, (laughter) as well as a counseling session. That will happen later. [LR93]

RUSS KARPISEK: Right. [LR93]

SENATOR ERDMAN: Thanks, Cash. Appreciate you coming back. [LR93]

CASH OSTRANDER: Okay. [LR93]

SENATOR ERDMAN: Anyone else wishing to testify on LR93? [LR93]

LADENE RUTT: Senator Erdman, committee, I'm LaDene Rutt, L-a-D-e-n-e R-u-t-t. I'm a dryland farmer from Deuel County. I have a little bit different aspect on this. The main reason is that I have just recently been on a property tax advisory committee for Deuel County, and I found some of the problems that the counties are having, trying to keep up their end of what the state is demanding them to do without supplying any money for it. Deuel County and a lot of other Panhandle counties are getting either very close to the 50-cent limit or have reached it, and have nowhere else to go for money to keep the infrastructure in our counties going, farm-to-market roads, bridges. The Legislature, in its wisdom...and I agree entirely with the estate tax going out the window, but on the other hand that was a place where the county was able to make larger expenditures if they were necessary, like buying a new road grader or something along that line, because that money was available. It is not any longer. We're going to have to budget for those special things now. That's going to take \$100,000 out of the budget for Deuel County for this next year that we have to put back away for special events, not only large purchases, but if somebody comes in on I-80, is caught in Deuel County with a large amount of drugs, we may end up having to supply a lawyer for them. That's going

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to be expensive. We have nothing in...no kind of funds that we'll be able to take care of that. I agree with Cash. A lot of the regulations and the requirements the states have put on the counties really should be looked at again. Give us a chance to make some economies where we can, rather than saying, oh no, you have to do it this way. That's my testimony tonight. [LR93]

SENATOR ERDMAN: Thanks, LaDene. Let me make a...make sure I understand what you're saying because I think there may be some confusion. The county doesn't receive any estate tax. It's the inheritance tax. [LR93]

LADENE RUTT: Yes, the inheritance tax. I'm sorry. [LR93]

SENATOR ERDMAN: Just so it's clear. [LR93]

LADENE RUTT: Yes. [LR93]

SENATOR ERDMAN: One of the things that happened this year when we passed the bill dealing with the inheritance tax is we raised the exemption for the immediate family members, we raised it a little bit less for the second and third generations, but the other thing that we did, which was never in law, was give counties the ability to enforce an inheritance tax. Because up to this point, if you didn't pay your inheritance tax, depending upon what the cost of it was, there was no way to recover some of those costs in actually recovering it. So you may have an inheritance tax that was due, but the cost of collecting it was unable to be collected. So now the county can not only go after the cost, but recover their cost in that collection. So, just so that we're clear, it's the inheritance tax you're talking about. The other thing that's interesting about the inheritance tax is that Deuel County went through a couple years where they got inheritance tax. [LR93]

LADENE RUTT: Yes, we did. [LR93]

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SENATOR ERDMAN: There's no guarantee that next year you'll get an inheritance tax because it's based on the life of an individual. [LR93]

LADENE RUTT: That's exactly the problem. [LR93]

SENATOR ERDMAN: So it is somewhat difficult. [LR93]

LADENE RUTT: That's exactly the problem. [LR93]

SENATOR ERDMAN: Let me share with you one other thing, and then we'll see if there's questions. For two years in a row, I've introduced a resolution asking for small counties to tell me what regulations they'd like to have go away. You know how many recommendations I've gotten? [LR93]

LADENE RUTT: You haven't gotten any yet,... [LR93]

SENATOR ERDMAN: Zero. [LR93]

LADENE RUTT: ...but there will be some. [LR93]

SENATOR ERDMAN: Send them down. Because we have Banner County, which... [LR93]

LADENE RUTT: Yes. [LR93]

SENATOR ERDMAN: ...Mr. Post and others here live in. We've gone to Banner County and been to some of their meetings that you've been at and asked for those ideas and haven't got any. And some counties say, we don't know what the answer is. We don't know what to ask you. We don't know what to tell you. Well, just make a list of things

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you don't like and send it down. [LR93]

LADENE RUTT: Uh-huh. [LR93]

SENATOR ERDMAN: But the other side of that is, is that if you look at what we're talking about tonight, and that's production agriculture that's successful, some of those issues will take care of themselves as well. [LR93]

LADENE RUTT: One would hope. [LR93]

SENATOR ERDMAN: And so from the standpoint of opportunities of production agriculture, livestock production, all of those things will also contribute if we do it correctly. [LR93]

LADENE RUTT: That will certainly make a big difference. The ethanol, livestock, and also the biodiesel, all of that type of industry is going to help. There is no doubt about it. And I applaud that, the encouragement that we get on those things from the Legislature. But we do have a problem. [LR93]

SENATOR ERDMAN: Yeah, I agree. Let me ask you about your operation just briefly. In your opinion, and you've lived through the experience of the last probably 40 years of production agriculture. You've seen a lot of things that have been impacted by public policy and also just reality and the market and life. What are the things that you see that have been positive, and what are the things that you see that haven't been as positive that have impacted your decision making or your operation, and what are some of the things that you would recommend we consider specifically regarding agriculture? And, you know, we obviously have your perspective from the tax policy, but from agriculture's perspective or from rural communities, what do you see as opportunities or things that we should be considering? [LR93]

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LADENE RUTT: To begin with, there's something that you can't legislate. That's greed. I went through those years when an awful lot of people lost their farms because the banker says, oh, come on, borrow more money, get bigger faster. It didn't work. They lost their land. I didn't buy. I stayed a small farmer. That can be good and it can be bad. I happen to have a husband that works outside and off the farm, and that works very well. That's another point. Many people are complaining that you can't make it on the farm anymore with just farming. You never have been able to. When this land was homesteaded, the women stayed on the farm in the winter and the men went back East to make money at jobs in the cities. It's not anything new. [LR93]

SENATOR ERDMAN: We're all crickets up here. (Laughter) Thanks for coming. [LR93]

LADENE RUTT: Thank you. [LR93]

SENATOR ERDMAN: Good to see you. Melody, I'd be remiss if I didn't invite you forward, someone that represents a livestock organization. We probably ought to hear what they think. [LR93]

MELODY BENJAMIN: I'm Melody Benjamin, M-e-l-o-d-y B-e-n-j-a-m-i-n. I'm on the staff for Nebraska Cattlemen. I run the Alliance office. I also have a ranch at Lakeside, Nebraska. Nebraska Cattlemen is a very diverse organization and because it's very diverse, we have members on both sides of this issue. So our policy is somewhat vague. Our policy says that we fill that...of course, the policy was written before the repeal and the discovery that I-300 was unconstitutional; says that if, in the event that there was ever a chance to make changes, some changes should be made. Does not say what changes should be made. We also have a policy that says that we encourage and look for opportunities for young farmers and ranchers through the process of I-300. So you can take that for what is ambiguous as it can be. [LR93]

SENATOR ERDMAN: Let me ask you a question, Melody, and thank you for your

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willingness. I'll have to tell Pete and Michael and all the other folks that you work with that you had more guts than they did to actually testify, because Pete was in Norfolk and Lincoln and he was happy to be a fly on the wall. Is it a fair statement or is it...yeah, we'll start with that. Is it a fair statement to say that if we can do things to benefit young farmers or beginning farmers in theory or by extension, we're probably also benefiting farmers who are currently in operation? In other words, are we focusing by trying to promote and enhance opportunities for young farmers or people who want to be farmers or be in agribusiness? If we're focusing on how to encourage that, in general, can we also make the assumption that we're probably also on the right track of trying to promote other opportunities for those who are currently in the business? Or do you think there are two different philosophies? [LR93]

MELODY BENJAMIN: I think that it definitely benefits everyone that's in the business, as long as there's not incentives that cause the young farmer to be in direct competition with the old farmer. And I'd like for the Legislature to define "old" and "young" in this. (Laugh) [LR93]

SENATOR ERDMAN: I'm an old senator. [LR93]

MELODY BENJAMIN: Yes. (Laughter) [LR93]

SENATOR HANSEN: And I'm a young senator. [LR93]

SENATOR ERDMAN: But I'm a young Nebraskan. Senator Hansen is an old Nebraskan, but a young senator. So there you go. [LR93]

MELODY BENJAMIN: Exactly. That's the problem with any discussion of "young" farmer or rancher, defining that. And also it's not appropriate to define it as beginning either. I have a son that is young. He is not a beginning rancher. He's been doing this since the day he was born. And I look forward for opportunities for him to come back

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and take over that ranch someday. [LR93]

SENATOR ERDMAN: Let me ask you the loaded question that's probably obvious to some. Livestock industry is, I think, vital to our state. It's 60 percent of the ag receipts that we have, little less than that probably, \$6 billion out of the \$9 billion I think at the last estimate. We have a number of opportunities in livestock in Nebraska partially due to the fact that the state that we live in, the resources that we have, the opportunities that are available through, you know, ethanol and other developments, that have created new opportunities for using those natural value-added engines as effectively in making those operations of ethanol production even more effective. Is there something that we should be looking at as a committee regarding livestock production in the state that would be beneficial to the long-term future of whether it's the cattle industry or livestock in general? I mean, we've heard...Tuesday we heard from the pork producers that we should have--reading between the lines--we should have statewide zoning. That will raise a lot of concerns. I mean there's all kinds of issues and pressures locally that deal with livestock production. What do you see as some of those obstacles, and does your organization have any direction for us as we go down this path? Because this path doesn't necessarily have to be just about Initiative 300. This, in my opinion, is about enhancing the opportunities of agriculture, as LR93 says. [LR93]

MELODY BENJAMIN: Senator, I appreciate that. Our base...one of our base policies--we don't have any direct policy on that--we have one policy that says local control is important. So inferring from that, you would assume that local zoning is important. We do find some problems with local zoning. A statewide zoning might be better, but we will always stand on a local control is the best for our members. I think if I would poll my members today they'd say the best thing for you to do is stay out of our business. (Laugh) [LR93]

SENATOR ERDMAN: Is that a motion? Okay, thanks, Melody. Any questions for Ms. Benjamin? [LR93]

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MELODY BENJAMIN: Thank you. [LR93]

SENATOR ERDMAN: I don't see any. Thanks a lot. Appreciate it. Did you fill out a testifier sheet? [LR93]

MELODY BENJAMIN: I will. [LR93]

SENATOR ERDMAN: Okay. We probably have time for at least one more. Mr. Busch, Mr. Birdsall, we'll let you both testify but not together. [LR93]

LARRY BIRDSALL: Pardon? [LR93]

SENATOR ERDMAN: I said we'll let you both testify. You just can't do it at the same time. So come on up. Anyone else want to testify? I don't want to... [LR93]

JEFF METZ: I wouldn't mind some additional testimony. [LR93]

SENATOR ERDMAN: Okay. We're not going to let you do that, Jeff, not because we don't like you, but because we don't allow that generally. And so you can visit with us afterwards or... [LR93]

JEFF METZ: Okay. [LR93]

SENATOR ERDMAN: We'll do it that way. [LR93]

LARRY BIRDSALL: Larry Birdsall, B-i-r-d-s-a-l-l, like all of us birds. I've been a initial supporter of Initiative 300, and I still continue to be a supporter of it. It needs to be tweaked and maybe to allow young farmers to come in. I don't know of any young farmers dumb enough to come into agriculture, but it maybe should be tweaked to do

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that and several other things that need to be tweaked to make it legal. My concern initially, and still is today, I had a good friend from California that came out to western Nebraska. He owned a business in California. He said, Larry, I've got \$500,000 I've got to spend or Uncle Sam gets it. He bought ten sections of grass with that \$500,000, and I couldn't argue with him because he's a private individual that did it. He didn't do it through the corporation. A year ago I was in an eye clinic in Cheyenne and I met a fellow from Douglas, Wyoming, a rancher, and he said some big city dudes from New York City are flying their corporate jet in every week and they're buying up grassland in Douglas, Wyoming. And you know what...how many acres it takes to produce a cow/calf in Douglas, Wyoming; paying \$1,000 an acre for that land. It was an investment club and they're using it for tax deductions and tax write-offs. And that has been my concern all these years, is that people are doing this for tax write-offs and there's no way us small farmers can compete with that kind of business. That's all I had. [LR93]

SENATOR ERDMAN: Thanks, Larry. Appreciate it. Any questions for Mr. Birdsall. You know, one of the things that's pretty popular these days is you can adopt things. And go on line. In Australia, when they were having their drought this last year, you could go on line and adopt a sheep and they would send you pictures of the sheep. Maybe when those folks were flying into Douglas that rancher should have offered to let him adopt some of his cows or maybe a couple plants on his farm and he could have sent him pictures and they wouldn't have had to spend the money buying the land. He could have... [LR93]

LARRY BIRDSALL: That probably would work. I've been in six foreign countries, former Soviet Union countries, and I can see this...what happened to them when they had centralized government. I can see those farmers there today and I can see us in the future. We...the big corporations come in and buy the land and we, as peons, have to be the laborers out there. Maybe they'd pay us good. Maybe they'd pay us a lot better than we're making farming. But the big corporations don't know how to take care of the land. You know, that's my livelihood. I want to take care of it. I want to conserve it for my

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son. And to tell these former Soviet people how to do something, they've been told all their life what time to get up, what time to go out to the field, when to take a potty break, and they never have a chance to think for themselves. And I've had...my worst problem with dealing with these people is getting them to think for themselves. And we're slowly coming to that point where the corporations and the big producers are coming in and the little peons have to work for them. If I'm working for a guy, I don't care if I take care of the land or the tractor or anything. I might get fired, but I can find another job the next day with another big corporation. [LR93]

SENATOR ERDMAN: In 1997, I was in the former Czech Republic, Czechoslovakia. We toured a 20,000-head hog operation and we were fortunate that there was a gentleman there from Canada that spoke Czech, because it was similar to the old Communist blockade. When you went somewhere, they tried to tell you what they wanted you to hear. And as state FFA officers, we were there touring other countries and getting an understanding of agriculture. And we asked the gentleman who was operating the plant, who was now a Capitalist program as opposed to a Communist program, how much money do you make; what's your net margin? And he "hem-hawed" around and, you know, told us about how many pigs they had and the whole deal. And finally, the gentleman from Canada spoke up and said, they don't make any money. And so I understand what you're saying and I think that's a mentality. One of the things that I think we struggle with in agriculture in America is that when we do make money we forget to tell our kids. [LR93]

LARRY BIRDSALL: True. [LR93]

SENATOR ERDMAN: And so when they're 5 and 6 and 7 years old we hear how horrible agriculture is and how they never want them to farm, and when they get to be 18 and 19 we complain that they don't come back to the farm. [LR93]

LARRY BIRDSALL: Well, my son did come back, an electrical engineer. Gave up a big

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pay, bucks, to come back and farm. And when I say I don't know any smart kids that want to go farming, he probably falls in that category. (Laughter) [LR93]

SENATOR ERDMAN: Well, given today's technology, I don't know any dumb kids that will be able to start farming. [LR93]

LARRY BIRDSALL: That's true. [LR93]

SENATOR ERDMAN: Because the technology, the...you have to pretty much be a chemist, a mechanic, a computer engineer to make it all work out and, you know, I think that's...I think that's difficult. It's the same thing with our college recruiters. They show up when they're 18 years old and most 18-year-olds have it all figured out. If they'd show up when they're 12, they'd probably fill up the university in Lincoln on the ag campus pretty quickly. [LR93]

LARRY BIRDSALL: True. [LR93]

SENATOR ERDMAN: But I think we do ourselves a disservice. And I told Senator Karpisek this in Norfolk. When they introduced us at a luncheon, I said if we don't clap for ourselves no one will. And so all of us senators that were there, we clapped for ourselves when they introduced us. And the reality is that if we in agriculture aren't willing to promote ourselves, our young people aren't going to come back and we're going to sit and listen to people tell us that nobody wants to be in agriculture, they can't afford to. [LR93]

LARRY BIRDSALL: That's true, and I appreciate you senators being here today. [LR93]

SENATOR ERDMAN: Sure. Appreciate it Larry. [LR93]

LARRY BIRDSALL: Thank you. [LR93]

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SENATOR ERDMAN: Thanks for coming. Mr. Busch. [LR93]

ROBERT BUSCH: I'm Robert Busch from Mitchell, B-u-s-c-h. I've been in production agriculture for 48 years. I used to be diversified. Was a land feeder. I-300, main reason we're here, initially I supported it 100 percent. The Legislature, now that it's declared unconstitutional, let's get it out of the constitution. Let's put it in state statute. And I don't like added regulations, but there needs to be oversight. When you draft the law, your an analyst but also legal counsel? When you draft the law, constitutionally, even though it's state statute, but make it legal to have oversight in the new 300. Nebraska wasn't the only state that was raped by a major corporation. So was Colorado. They passed a similar law, not as obtrusive as Nebraska did. We have to be honest with ourselves for our good senate friends east of Ogallala. Western Nebraska, (laughter) western Nebraska really didn't get into this ferocious debate, name calling during the heated debate about 300. My neighborhood, I'm proud to say, has quite a number of young farmers. When Mr. Birdsall talks about his son coming home highly educated, we, too, have a neighbor, his son came home. Another young man, neighbor's boy, owns a business now--highly educated. But like I say, when we talk about 300, when you draft the law let's go to state statute and put some oversight in it to protect landowners. References have been made tonight about this, quote, unquote, family corporation coming in and paying this quite high land prices. Not only did they pay too much for the land, but they also raised the rent on tenants; set another precedent that's not good for this part of the world. And we're much more susceptible to weather phenomenon in this end of the state than the folks east of Ogallala. And you understand the reference now, Ogallala is the breaking line? That's western Nebraska. (Laughter) [LR93]

SENATOR ERDMAN: You realize we're outvoted on this table, 3 to 2. [LR93]

ROBERT BUSCH: Absolutely. I recognize that. [LR93]

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SENATOR ERDMAN: Okay. All right. [LR93]

ROBERT BUSCH: I recognize that. So that's my thoughts on 300. And, Senator Erdman, if I may, like you did earlier with Mr. Metz, I'd like to address some issues that you folks are going to have to tackle. We talk about infrastructure. I'm from Scotts Bluff County. We have a number of many miles of county roads, we have a lot of bridges in this county because of surface water irrigation. I was down at the policy meeting on Scotts Bluff County Farm Bureau members, Kearney's policy meeting. Senator Fischer spoke. An issue that you folks are going to have to address is this gas tax. The Highways Fund is basically empty. How are you going to get the money? I don't like it, but you're going to wind up raising our gas tax. And I'll tell you, drag your feet as hard as you possibly can. One of the biggest problems that farmers in Nebraska are going to face next year, looking at this year 2008, is higher production cost. There are going to be...fertilizer is going to be off the wall and seed cost and with gas taxes, once again, when I refer to western Nebraska. You know, you guys, you three guys, that's what we have is three, we have three state senators in western Nebraska, and I have to give you guys credit. You're good fighters. You're tough. Stay tough. But that's going to be another issue is this gas tax thing. We're looking at a minimum of a penny federal increase gas tax coming our way. And so LB126, oh, my goodness gracious alive, what a fiasco. Should have never happened, my-my, my-my-my. You know, I'm totally opposed to term limits, but there was three or four senators should have been gone, and just destroyed our Class I schools. It's so sad. And so what I, like I say, I appreciate you folks coming out here. Another thing I appreciated tonight, there's been two...well, sorry, Mrs. Rutt, three of us older folks that have been up to this table. The majority has been young people, and I appreciate that. I really appreciate that; that these younger people are stepping up to the table and voicing their opinions. And so with that, I guess, Senator Erdman, I will close. And you go out in '08? And he goes out...you don't? You do. [LR93]

SENATOR LOUDEN: No, I can run. I can run (inaudible). [LR93]

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ROBERT BUSCH: Oh, yeah, you're okay. [LR93]

SENATOR ERDMAN: He's got the...he's got a golden ticket that he'll explain to you later. [LR93]

ROBERT BUSCH: Yeah. Okay. (Laughter) With that, I'll close and thank you again for coming, and if you have any questions or comments, why,... [LR93]

SENATOR ERDMAN: Thank you, Bob. [LR93]

ROBERT BUSCH: You bet. [LR93]

SENATOR ERDMAN: I think Cash Ostrander wants to buy you dinner because you said three people were older that spoke, and so that left him in the younger crowd and he got a chuckle out of that, so... (Laughter) [LR93]

ROBERT BUSCH: He is younger. He's got a lot less...he's got a lot less gray hair than he has dark hair. [LR93]

SENATOR ERDMAN: He'll be happy to buy you dinner. But we appreciate you coming. [LR93]

LADENE RUTT: If you've got it flaunt it. I got age. (Laugh) [LR93]

SENATOR ERDMAN: And I would say that Dave Petersen would probably chip in, but I'm not sure he will, so...well, that will close the hearing, but let me share this perspective with you. This has been the third of our series of hearings. This may not be the last, but I know that it won't be the end of our work. We were in Norfolk on Monday. We were in Lincoln Tuesday afternoon which caused some of us that are in western

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Nebraska to get home at midnight on Tuesday and try to get back to work the next day. But one of the things that I think is important for you to understand is that we come here asking you for your perspective. If you ask Annette, Senator Dubas, who was a part of the Friends of the Constitution for a number of years before Initiative 300 passed through referendum in 1982, she'll tell you that it took a lot of statewide discussion to try to figure out what the policy should be. It took a number of attempts in the Legislature, which failed, to get where they were. They believed that was the right public policy at the time. I was five. Recognize that some in the room may not have even been born when that was passed. This has to be a new discussion, but we can't ignore the foundation that was built and understanding that brought us here. So when I mentioned earlier that we want you to go back and talk to the folks across the fence line or your neighbors or your friends or even your enemies, we do, because we want you to go back and engage the people who have been affected by the law and who have the opportunity to affect any future policy that we may have. And maybe there isn't a good solution, or maybe there's a bunch of ideas that are a coordinated package and not maybe one specific policy, but we won't know that unless we continue to have feedback from you. So we appreciate you coming. Recognize that our work doesn't end when the Legislature adjourns in June, because we're here now. Your work doesn't end just because you came up tonight and said a few things that helped go into the record, that gives us some ideas. It continues on. Because if we're going to make this work we all, as Nebraskans, have to work together to find the solutions. But we do greatly appreciate you coming out. I want to also thank my colleagues that have traveled a ways. Senator Dubas and Senator Karpisek willingly agreed, and I would say somewhat enthusiastically agreed, to come out here and I'm grateful for their sacrifice. And our legislative staff have come out from Lincoln today as well, and they understand how far it is out here, and so we want to thank them for their efforts as well. But your involvement has been key and it will continue to be key as we set public policy, and feel free to contact any of us or keep in contact with my office if you have ideas or if you're representing an organization. We want to hear from you and we want your perspective. We look forward to working with you. Thanks for coming. Looks like there's still some

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coffee and tea and water. Help yourself. And if you didn't fill out a sign-in sheet, please do that for us so we have an official record. [LR93]